

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

8 || THOMAS BRANAGAN,

Petitioner,

10 | VS.

11 || DWIGHT NEVEN, *et al.*,

Respondents.

2:15-cv-01575-GMN-PAL

ORDER

13 || /

15 This action is a petition for writ of habeas corpus. On August 17, 2015, the petitioner,
16 Thomas Branagan, submitted an application to proceed *in forma pauperis* (ECF No. 1), a petition
17 for a writ of habeas corpus, and a motion for appointment of counsel (ECF No. 2).

18 On August 19, 2015, finding Branagan able to pay the filing fee, the court denied his
19 application to proceed *in forma pauperis*, and ordered him to pay the filing fee within 30 days.
20 The court stated that failure to comply with that order would result in the dismissal of this action.

21 Branagan did not pay the filing fee in the time allowed. Therefore, on September 30, 2015,
22 the court dismissed this action, and judgment was entered accordingly (ECF No. 4, 5)

On October 22, 2015, Branagan filed a document entitled "Motion to Show Just Cause" (ECF No. 6). That document is in the nature of a motion for relief from judgment, pursuant to Federal Rule of Civil Procedure 60(b), and the court treats it as such. The motion for relief from judgment was filed within a reasonable time. *See Fed.R.Civ.P. 60(c).*

1 In his motion for relief from judgment, Branagan states that he attempted to pay the filing fee,
2 but was unable to do so. Branagan asks for additional time to pay the filing fee.

3 The court finds that there is good cause to grant Branagan's motion for relief from judgment.
4 The court will order the judgment vacated. The court will grant Branagan additional time to pay the
5 filing fee, or to file a new application to proceed *in forma pauperis*, if he believes he is no longer
6 able to pay the filing fee. If Branagan does not pay the filing fee, or file a new application to proceed
7 *in forma pauperis* within the time allowed, this action will be dismissed.

8 **IT IS THEREFORE ORDERED** that petitioner's "Motion to Show Just Cause" (ECF No.
9 6) is treated as a motion for relief from judgment, pursuant to Federal Rule of Civil Procedure 60(b),
10 and is **GRANTED**.

11 **IT IS FURTHER ORDERED** that the judgment entered September 30, 2015, is
12 **VACATED**.

13 **IT IS FURTHER ORDERED** that petitioner shall have until **January 8, 2016**, to pay the
14 \$5 filing fee for this action. To do so, petitioner shall have the filing fee of five dollars (\$5) sent to
15 the Clerk of the Court, along with a copy of this order, or some other document indicating the filing
16 fee is for this action. In the alternative, if he is no longer able to pay the filing fee, petitioner may file
17 a new application to proceed *in forma pauperis*, on the correct form and fully completed. Failure to
18 comply with this order, within the time allowed, will result in dismissal of this action.

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20 Dated this 2nd day of November, 2015.

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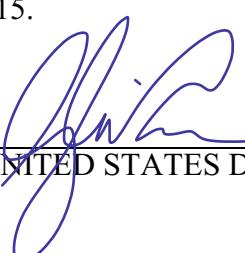
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UNITED STATES DISTRICT JUDGE